

PLANNING AHEAD, DIFFICULT DECISIONS

# Wyoming Wills

## Some Suggestions for Getting the Most from Estate Planning



Aaron J. Lyttle

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## Some Suggestions for Getting the Most from Estate Planning

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## Background

Creating and signing a will often constitutes the central step in planning one's estate. Studies indicate that almost half, if not more, of Americans lack basic estate planning documents, including simple wills.<sup>1</sup> This bulletin provides a broad overview of how wills operate and suggests some ideas for taking full advantage of them under Wyoming law.

## What Happens to the Estate of Persons Dying Without a Will?

Wyoming law considers a person who dies without a will to have died "intestate."<sup>2</sup> The default rules provided by Wyoming law govern the management and distribution of such a person's estate. These default rules represent the Wyoming Legislature's attempt to guess an intestate person's probable intent. The Wyoming Probate Code is somewhat old and may not reflect a testator's actual desires regarding his or her estate. If someone dies without a will, property will tend to pass to the person's legal heirs in the following order:

- All to surviving spouse (if no children)
- Half to surviving spouse and half to surviving children and their descendants
- All to surviving children and the descendants of deceased children
- Parents, siblings, and children of deceased siblings
- Grandparents, uncles, aunts, and their descendants

An intestate estate will be subject to other default rules, including the appointment of an administrator. If you want input into how your estate is managed, you should consider drafting a will.

## What is a Will?

A "will" (also called a "testament" or "last will and testament") is a document that describes the last wishes of an individual after his or her death, including how property should be distributed and who should manage the estate of the deceased person (the "decedent").<sup>3</sup> The person who creates a will is known as a "testator." The testator's property, assets, and obligations are known as the "estate."

## What Does a Will Do?

A will's primary functions can be divided into two categories: (1) those directing the distribution of the decedent's estate and (2) those nominating individuals to represent the decedent and his or her estate.

### Distributing Property

The terms of a will can direct who should receive your property after you die. After payment of the decedent's funeral expenses, administrative fees, outstanding taxes, and creditors' claims, the will can provide who should receive the rest of the decedent's estate.<sup>4</sup> The will can also provide for how certain estate liabilities, such as taxes, should be paid (i.e., does every heir pay his or her own share of estate tax?). Note that certain important pieces of property will not pass according to the will's instructions, such as jointly owned property, trust property, and other kinds of non-probate property discussed below.

### Nominating Representatives

A will is also commonly used to nominate persons to certain positions necessary for administration of the decedent's estate. The testator will usually nominate a person to act as the "personal representative" (also known as an "executor") of the estate. This person should be chosen with care. The estate's personal representative is considered a "fiduciary," which is a person who is in a relationship that confers a substantial degree of trust. The personal representative's legal duties may require consultation with an attorney.

Many wills provide for successor personal representatives to serve in the event that a named representative is unable or unwilling to serve. While Wyoming law provides default persons to administer the estate of someone who has not appointed a personal representative,<sup>5</sup> the will provides an effective way of ensuring that the estate is administered by someone trusted by the testator. This power can make the will a very useful tool, even for testators who lack significant probate estates (whether because most of the property will pass outside the will [see below] or because the person has very modest financial means).

A will may nominate other types of fiduciaries. For example, if a will provides for the creation of trusts upon the testator's death, it will usually nominate individuals who or institutions (including successors) that should act as trustees of those trusts. A will may

also name a guardian or conservator for a minor child in the event that the child's parents have passed away.

## Formal Will Requirements

Drafting a will often requires a balance between simplicity and more complex measures that may be needed to carry out the testator's intent. Many attorneys will have a particular style for drafting and structuring wills and trusts, which is likely based on their experience of what has proven successful for their clients in the past.

Regardless of personal style, the general requirements of a will must be satisfied if it is to be effective in passing property at death. Specifically, the will should

- Be in writing or typewritten,
- Signed by the testator, and
- Witnessed by two competent, disinterested witnesses.<sup>6</sup>

The will may also contain a "self-proving clause," which is a notarized affidavit executed by the witnesses and containing language provided by Wyoming law. Such a clause greatly simplifies the process of proving the will's authenticity if it is later admitted to probate.<sup>7</sup>

A qualified attorney should be aware of these requirements and will guide you through the steps to ensure the validity of your will and other estate planning documents.

## Consulting a Qualified Attorney

Beyond simply signing a will, it is important that the will meet requirements of Wyoming law and adequately reflect the testator's wishes. An inexperienced draftsman may not use the proper formalities, placing the will's validity in doubt. Even if the will is enforceable, poor drafting or the omission of important provisions may fail to reflect the testator's intent or increase estate administration costs.

Drafting a will likely constitutes the practice of law, which requires a license from the Wyoming Supreme Court. Unauthorized practice of law is illegal<sup>8</sup> and can subject the draftsman to civil and criminal court proceedings brought by the court's Unauthorized Practice of Law Committee.<sup>9</sup> Consequently, it is usually not advised to seek assistance from anyone other than a licensed Wyoming attorney in drafting your will.

## What about Holographic Wills?

Unlike many other states, Wyoming law continues to allow testators to create enforceable informal wills known as "holographic wills." A "holographic will" is a will that is enforceable despite not being properly witnessed, because it is entirely in the testator's handwriting and signed.<sup>10</sup> Such wills are used not only by testators who are reluctant to hire an attorney but by individuals who are simply unable to consult a lawyer due to exigent circumstances, such as limited financial means or impending death. In one famous case, an unfortunate farmer trapped under a tractor wheel managed to scratch the following holographic will in the tractor's fender: "In case I die in this mess, I leave all to the wife. Cecil George Harris."<sup>11</sup> This case illustrates the preferable use for holographic wills: as a stopgap measure when legal advice is not feasible, rather than a practical estate plan.

Holographic wills create special validity problems. A holographic will not written entirely by the hand of the testator and signed may be considered invalid. Thus, a tape recording, a video recording, or a typewritten will does not meet the requirements of a holographic will. There are countless examples in Wyoming and other states of unwary testators who made errors that resulted in the invalidation of their holographic wills. For example, in 1985, the Wyoming Supreme Court held in *In re Estate of Dobson* that a holographic will was not entirely in the testator's handwriting (and thus invalid) because the testator had allowed a trust officer to write words and marks on the will.<sup>12</sup> Even if a holographic will is deemed valid, the testator's heirs may still be forced to prove the will's validity to the probate court, which can be difficult with unwitnessed holographic wills.

## Blank Forms and Electronic Services

Several resources provide default forms for wills and other estate planning documents. Traditionally, these were found in printed books or pamphlets but are now available on the internet or through computer software. Many of these services have been the source of intense legal disputes regarding whether they constitute the unauthorized practice of law.<sup>13</sup>

This bulletin does not advise or endorse the use of any formbook, service, or software for the creation of wills or other estate planning documents. As noted by a popular book regarding estate planning and other

legal issues for non-lawyers, “Self-help books compress life’s complexity into three or four choices.”<sup>14</sup> Often, such choices will be no more well adapted to a particular testator’s goals than the default rules provided by Wyoming’s intestate succession statute.

### **Choosing the Right Attorney**

Not all attorneys are the same. While there is typically no requirement that an attorney obtain a special license to engage in estate planning, you should exercise judgment in selecting an attorney who is capable of creating your estate plan based on his or her education and experience. Your attorney will have significant access to very important decisions regarding your property and other affairs, so you should make sure to retain someone with whom you are comfortable and are able to place a great deal of trust.

If you are looking for an estate planning attorney, you may be able to obtain a referral from the Wyoming State Bar at [http://www.wyomingbar.org/directory/need\\_lawyer.html](http://www.wyomingbar.org/directory/need_lawyer.html). Attorneys participating in the Lawyer Referral Service have selected the practice areas in which they would like to receive referrals. They have not been certified by the Wyoming State Bar as specialists or experts in any area of law.

## **Your Part in the Attorney–Client Relationship**

As a client, you will play a critical role in the estate planning process. Your attorney should know the law and how to accomplish estate planning objectives but can’t do that effectively without your active participation. In addition to questions raised in this section, the University of Wyoming Extension has provided a questionnaire designed to elicit information that can help you in informing your attorney of your estate planning needs (see *Estate Planning Checklist: Information to Assemble Before Consulting Your Attorney* Bulletin 1250.2).

These details can be sensitive and private, but you should be frank with your attorney. Attorneys have a strong duty to maintain the confidentiality of communications with potential, actual, and former clients.

### **Gathering Basic Information**

Before consulting an attorney to draft a will and other estate planning documents, it is often a good idea to consider your current personal and financial

circumstances. No matter how talented your attorney, he or she may not be able to create an effective estate plan without knowing important details about you and your family. At a basic level, your attorney will want to know about your family and financial situation, including spouses, children, stepchildren, and other family members and their respective ages and general health status.

While basic family information can help an attorney fit you into a basic plan that he or she tends to provide clients in your situation, additional information can ensure that the plan meets specific needs. Your attorney will want a complete picture of your financial status, including businesses, real estate, life insurance policies, retirement plans, and other assets and liabilities. You should obtain copies of all relevant documents, including deeds, titles, account numbers, policy documents, etc. Your attorney will also want to see any prior estate planning documents that may need to be updated or replaced.

Your attorney will need to know where you intend to live for the indefinite future (e.g., your residence). This affects which laws will govern your estate plan. Each U.S. jurisdiction—including the 50 states and District of Columbia—has its own laws regarding the requirements and effect of wills and trusts, and you should ensure that your planning is done by a competent attorney who is licensed in the jurisdiction in which you permanently reside.

### **Selecting the Personal Representative**

Take care to consider who should act as your personal representative or the trustee of any trusts created by your estate planning documents. Many individuals choose their spouses, with their children to serve as successors, but you may have a different person you would trust to manage your affairs. Is there anyone that you do not want to serve as personal representative? Additionally, you may want to consider waiving the requirement that the personal representative file a bond or surety with the probate court to reduce estate administration costs.

### **Distributing Your Property**

One of the most important parts of your estate planning discussion involves who will inherit your property after death. This part of the conversation can be roughly divided into two phases.

First, the testator will determine if any heirs should receive specific items of property (often called “specific bequests”). For example, a testator may want a family home, business interests, or a sum of cash (whether a specific amount or percentage) to be set aside for particular friends, a child or children, groups of people, or charities. This phase can include a Personal Property Memorandum providing for specific recipients of a testator’s tangible personal property. (See *Personal Property Memorandum Bulletin* 1250.8.) It can also be used to determine who should take possession of a testator’s pets (and any associated property) after the testator’s death.

Second, the testator will usually determine how the rest of his or her estate should be distributed (often called the “residue” or “residuary estate”). This often takes the form of equal distributions of property based on the closest surviving generation. In a typical “per stirpes” or “right of representation” arrangement, property will be divided equally among the testator’s children, but if any child predeceases the testator, then that child’s share will be divided equally among his or her children or, otherwise, be distributed to the testator’s other surviving children in equal shares.

Other common options include the following:

- Leaving property to descendants “per capita,” which gives each descendant an equal share, regardless of whether his or her parent has survived the decedent.
- Leaving property to non-family members, such as friends or charities.
- Requiring property to be held for a spouse’s or descendants’ benefit in trust. For example, special types of marital trusts (called “QTIP trusts,” short for “qualified terminable interest property”) can help ensure that children from previous marriages are not disinherited while taking maximum advantage of the federal estate tax exemption for the first spouse who dies.

You should inform your attorney if you envision a special distribution scenario. This is often the case for individuals who have non-traditional family arrangements. For example, a will’s default pattern of distribution often excludes stepchildren. You may also want to be careful about children from prior marriages, they may end up losing their inheritance if you pass away and leave everything to your second spouse,

who may have children of his or her own from a prior marriage. Additionally, estate planners often assume property should pass to a person’s surviving descendants. But some people may wish to benefit friends, significant others, charities, and other people to whom they are not related by blood or marriage.

### **Disinheritance**

Testators are generally free to exclude certain individuals from receiving an inheritance. This process is called “disinheritance.” Family disagreements, substance abuse, and other factors can contribute to the decision to remove someone from a will. With that said, spouses are typically entitled to an “elective share” of an estate, which can be one-quarter to one-half of the estate.

### **Minor Children**

Do you have minor children who may need someone to take care of them after their parents die? You may consider drafting a will provision nominating guardian(s) or conservator(s). Those nominees will be given preference by a court in future guardianship or conservatorship proceedings if their appointment is in your children’s best interest.

### **Business Interests**

Do you own any business interests in closely held businesses, such as corporations, limited liability companies, or partnerships? How these interests get disposed of may depend on the terms of the entity’s organizational documents or a buy-sell agreement. If you have these interests, you should discuss optimal succession planning with your attorney.

### **Trusts for Heirs with Special Needs**

Do you have heirs who may be unable to handle property for themselves? This category can include children who are under a certain age, people who engage in substance abuse, spendthrifts, and persons with special needs. Property can be held in trust under certain conditions, ensuring that a separate trustee manages the property in a prudent fashion on behalf of the beneficiary. Wyoming law provides a number of tools (including discretionary and spendthrift trusts) to protect property from such individuals’ creditors as long as it remains held in trust. Other types of trusts can simplify the process of qualifying for government benefits, such as Medicaid.

Testamentary trusts (e.g., trusts created by a will, which become effective when the testator dies) can provide substantial benefits to individuals who have children or grandchildren who may inherit before they are capable of independently managing property. Often, the terms of a will provide for the creation of testamentary trusts to hold property for anyone who is under a certain age (often 21, or even older). The assets will then be held in trust by a selected trustee for the person's benefit until he or she reaches the designated age. This can provide for creditor protection and prudent management of assets that would not be available if property were transferred directly to a recipient. Testamentary trusts are usually simpler and less expensive to create than a full revocable trust plan (discussed below).

One possible alternative to testamentary trusts is to provide for the creation of accounts under the Uniform Transfers to Minors Act. While these accounts may not provide all of the same flexibility and control that someone may have over a trust, they are simple to set up and administer through a financial institution.

### **Will Substitutes and Non-Probate Property**

Many types of property will pass without regard to the terms of a will. These devices are sometimes referred to as testamentary- or will-substitutes. Such property typically passes without the need for probate, which can reduce the size of someone's probate estate and possibly minimize estate administration costs. These include the following:

- Payable-on-Death (POD) and Transfer-on-Death (TOD) designations on checking and savings accounts.
- Retirement accounts with beneficiary designations, such as 401(k)s and IRAs.
- Life insurance policies.
- Jointly owned property.
- Property held in trust.

When using such tools, it is important to ensure that your beneficiary designations remain current. Unlike in a will, an ex-spouse may not be automatically "disinherited" as a beneficiary eligible to receive one of these types of property upon divorce. Some states provide varying levels of protections for this type of property, but it is safer to consult your attorney about the applicable law.

### **Do You Need More Than a Will?**

In addition to a will, other documents may be created to ensure an effective estate plan, such as an Advance Health Care Directive, Durable Power of Attorney, and trusts.

In some cases, it may be worth the expense of using revocable trusts, rather than wills, as the primary means of distributing property to a testator's heirs. A trust is a relationship in which a property owner, known as the "settlor," transfers property to a person, known as the "trustee," who holds legal title to property for the benefit of one or more beneficiaries. A trust is revocable if it can be amended or cancelled. Revocable trusts have become very popular estate planning tools in the U.S. because of their ability to act as "will substitutes" by passing property to one's descendants without going through the expense and difficulty of probate. Trust property is not subject to probate, which has the potential to minimize the costs and difficulties of distributing property to a person's heirs.

Whether the cost of creating and administering trusts is justified usually depends on whether a testator's assets are in excess of the limit over which state law will require an estate to be subject to a full blown probate. For example, Wyoming law allows probate estates worth \$200,000 or less to use the less expensive, less formal summary distribution method.<sup>15</sup> You should discuss this issue and the possibility that your estate will be forced to undergo a standard probate, as opposed to a less strict procedure, with your attorney.

### **Communicating with Your Family**

Estate planning can be a sensitive process involving issues regarding a person's personal finances and relationships with family and friends. As noted before, the attorney-client relationship requires candor and is entitled to a high degree of confidentiality. You do not need to allow family and friends to participate in the conversation or even inform them of how you have drafted your estate plan. You are the client and your attorney will want to make sure that the estate plan reflects your wishes, not those of people who may be able to exercise undue influence over you.

Nonetheless, many families can benefit from some amount of open communication regarding the estate plan. This can help ensure that your family knows

how to locate important documents after you die. It can also ensure that the person or people you intend to nominate as personal representative(s), trustee(s), guardian(s), conservator(s), etc., is/are able and willing to carry out your wishes. Finally, discussing your plan can help explain why you have made certain decisions and possibly resolve disagreements while you are still alive, competent, and able to express yourself.

## Maintaining Your Plan

After your estate plan has been completed, the original documents, as well as photocopies, should be stored in a safe place (it's always wise to have a second set in a separate location that's also considered "safe"). Many estate planning attorneys have fire-rated rooms and electronic servers that can be used to store documents. It can be helpful to let family members know that the documents exist and inform them of where they can be found.

When circumstances change, a will may need to be amended or changed. Thus, constant attention should be given to changing family and financial interests. Specifically, divorces, deaths, births, and other events may change the interests and desires of the testator of a will. In these cases, a will amendment (called a "codicil") or a new will may need to be executed. In these circumstances, special care may need to be taken to ensure that contradictory provisions are not created or important provisions are not deleted.

It can also be helpful to revisit your estate plan from time to time to take advantage of or respond to changes in the law. Your attorney should be aware of changing laws and rules, particularly those concerning probate and taxes.

## Things to Consider Before Meeting with Your Attorney

1. Where is your permanent residence?
2. What is your family situation?
  - a. Spouses, ex-spouses, children, stepchildren, and other possible heirs, including friends and extended family.
  - b. Charities you may wish to benefit
  - c. Births, deaths, disability, incompetency, divorce
  - d. Do any heirs have special needs? Will any of them need to qualify for Medicaid in the future?
3. Do you have any past documents that need to be reviewed or updated?
  - a. Wills
  - b. Trusts
  - c. Living wills, Health Care Powers of Attorney, Advance Health Care Directives
  - d. Durable Powers of Attorney
4. Have you ever lived in a community property state?
5. What are all of your assets and liabilities?
  - a. Assets
    - i. Real estate
    - ii. Furniture and personal property
    - iii. Bank and savings accounts
    - iv. Stocks and bonds
    - v. Life insurance policies and annuities
    - vi. Retirement plans
    - vii. Business interests
    - viii. Money owed to you
    - ix. Anticipated inheritances, gifts, and lawsuit judgments
    - x. Other assets
  - b. Liabilities and debts
    - i. Credit cards
    - ii. Mortgages
    - iii. Vehicle loans
    - iv. Student loans
    - v. Outstanding medical bills
  - c. How are assets held? In your own name? Jointly with someone else? In trust?
  - d. Where are the assets located?
  - e. Are any family members or friends holding assets that you own?
  - f. Do you have non-probate assets?
    - i. Jointly titled property
    - ii. Accounts or securities with TOD or POD designations
    - iii. Transfer-on-Death deeds
    - iv. Policies and accounts with beneficiary designations
  - g. Do you have any powers of appointment over property?

- i. Who can they be exercised in favor of?
  - ii. Do they need to be exercised during life or at death?
6. Do you have children who will need a guardian or conservator?
7. Should the interest of a minor or any other person, including a spouse, be directly transferred to that person or held in trust? For how long?
8. Who should manage your estate or act as trustee for any trusts that may be created?
  - a. Who should be successors?
9. Who should make medical or financial decisions for you when you can't?
10. Who do you want to leave your property to?
  - a. Specific items of tangible personal property for specific people
    - i. Use of the Personal Property Memorandum
  - b. Other specific bequests
  - c. How to distribute the rest of your estate (in equal shares?).
11. Do you have any closely held business interests that require succession planning?
  - a. What form is the business in? Sole proprietorship? Partnership? Corporation? LLC? LLP?
  - b. Buy-sell agreements?
12. Does the size of the probate estate justify the need for trust planning (e.g., in Wyoming, more than \$200,000 in assets)?
13. Tax planning
  - a. Does the size of your estate justify gift and estate tax planning (e.g., valued at \$5 million or more per individual [as of 2013])?
  - b. If so . . .
    - i. Are you married?
      1. What is your spouse's citizenship status?
    - ii. Are you in a position to start an annual and lifetime gift-giving program?
    - iii. Do you want to take advantage of charitable deductions?
14. Where are you going to store your documents?
15. Do you want family or friends involved in the planning process?

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<sup>1</sup> “Lawyers.com Survey Reveals Drop in Estate Planning,” Lawyers.com, <http://press-room.lawyers.com/2010-Will-Survey-Press-Release.html>. While 49% reported having some type of estate planning document (whether a will, trust, or Durable Power of Attorney), only 35% reported having a will.

<sup>2</sup> Wyo. Stat. Ann. § 2-4-101.

<sup>3</sup> See Black's Law Dictionary, 2009, 9th edition. (“The legal expression of an individual's wishes about the disposition of his or her property after death; esp., a document by which a person directs his or her estate to be distributed upon death.”)

<sup>4</sup> Wyo. Stat. Ann. § 2-6-101.

<sup>5</sup> Wyo. Stat. Ann. § 2-6-202.

<sup>6</sup> Wyo. Stat. Ann. § 2-6-112.

<sup>7</sup> Wyo. Stat. Ann. § 32-6-114.

<sup>8</sup> Wyo. Stat. Ann. § 33-5-117.

<sup>9</sup> See John M. Burman, “Ethically Speaking—Who May Practice Law in Wyoming?,” Wyoming Lawyer, October 2005, [http://www.wyomingbar.org/bar\\_journal/article.html?id=43](http://www.wyomingbar.org/bar_journal/article.html?id=43).

<sup>10</sup> Wyo. Stat. Ann. § 2-6-113.

<sup>11</sup> Elmer M. Million, 1960, “Wills: Witty, Witless, and Wicked,” Wayne Law Review, v. 7.

<sup>12</sup> 708 P.2d 422 (1985).

<sup>13</sup> Brandon Schwarzentraub, “Electronic Wills & the Internet,” Estate Planning and Community Property Law Journal v.5:1, <http://www.estatelawjournal.org/site/wp-content/uploads/2013/02/Schwarzentraub.pdf>.

<sup>14</sup> Kenney F. Hegland and Robert B. Fleming, 2007, *Alive and Kicking: Legal Advice for Boomers*, Carolina Academic Press.

<sup>15</sup> Wyo. Stat. Ann. §§ 2-1-201 to -204.

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This brochure is for information purposes only. It does not constitute legal advice. You should not act or rely on this brochure without seeking the advice of an attorney.

## LAST WILL OF JOHN DOE

1. I, John Doe, a permanent resident of the state of Wyoming, being of somewhat sound mind, and having insufficient time or desire to prepare my own will, hereby adopt the will provided me by the State of Wyoming as follows:

### Part A Personal Representative

2. I don't care who is appointed as my personal representative (the person in charge of carrying out my will), and the court and my survivors can pick anyone they choose (but not a non-resident of Wyoming). I declare that my personal representative must buy an expensive fidelity bond, and the annual premiums for this bond will be paid out of my property so that my family will inherit less from me. If my personal representative dies before the administration of my estate is completed, I don't care who is appointed as a successor, and I direct that my estate be subject to the delay and expense involved in going through the appointment procedure all over again.

### Part B Powers of Personal Representative

3. My personal representative shall not be given the flexibility to deal with any problems in administering my estate as they arise, but, rather, the person shall be required to request court approval before taking any major actions. My personal representative cannot sell my assets to pay my bills without giving notice to my heirs and creditors and getting permission from the court. If the court determines that a sale of my assets must be by public auction, I direct that notice of the sale be published in a newspaper once a week for three consecutive weeks and that the expenses of this notice and the auction be paid out of my estate so that my family will receive less of an inheritance.

4. I do not wish to give my personal representative any specific or special authority to carry on any business owned by me at the time of my death. It is my instruction that my personal representative and the

court be more concerned with the rights of my banker and other creditors for three months after I die than with the needs of my family or my business. I do not wish my personal representative to have any specific authority to make distributions to minors, but rather I direct that my personal representative require expensive and time-consuming guardianship and conservatorship proceedings before any distribution to a minor is made. I do not grant my personal representative any authority to resolve disputes in a manner that would be binding on my heirs, but rather I direct that all disputes between or among my heirs be resolved in court upon full hearing with each side being fully represented by attorneys who should feel free to request payment of their fees out of my estate if the court will allow it.

### Part C Personal Representative's Fees

5. I hereby declare that I made no particular plans for avoiding probate, and, therefore, I insist that my personal representative and personal representative's attorney be paid the full probate fee for all assets of mine that I did not try to keep out of probate.

### Part D Provisions for My Wife

6. Although I dearly love my wife, I don't believe she should have all of our property if I die before her. If I have any children or grandchildren surviving me, then my wife can only have half of my property.

7. If my wife and I die in a common accident or disaster or under circumstances creating any doubt as to which of us survived the other, I do not wish to exercise my right to provide for a distribution of property to take advantage of any tax deductions. I direct that my property not be distributed to my wife at all, so that I will not receive a "marital deduction" from federal estate taxes. Thereby, I can ensure that the federal government will get as much as it can from my assets and my family will get as little as possible from my assets.

## Part E Provisions for Children

8. If my wife dies before I do, I do not care who will be named guardian to take care of any children I have who are minors at the time of my death.
9. If my wife survives me, then I direct that my children get half of my property, regardless of how many children I have or how old they are. If my wife does not survive me, I direct that my children get all of my property. My property will be divided equally among my children (the grandchildren dividing equally the share of any deceased child), regardless of whether I have one child who has greater needs than the others. I do not care which of my children gets family keepsakes or heirlooms, and I leave this up to my personal representative (and I do not care who my personal representative is). If my children take this occasion to fight with each other over the rights to inherit any special items because I failed to let my wishes be known, I direct that any such disputes be resolved in court upon full hearing with as many lawyers as my children want to hire, with as much in legal fees paid out of my estate as the judge will allow. It is further my preference that the loser or losers in any such family fight hold a grudge against the winner or winners for the rest of their natural lives if they so desire.
10. If my wife dies before me and if any of my children are minors, I direct that an expensive conservatorship be established for handling their money, in addition to the simple guardianship for the purpose of raising them to adulthood. I direct that the conservator of a child's money reports to the court every year and incurs the expense of hiring an accountant to prepare annual accountings and an attorney to prepare a report and obtain an order from the court. Of course, all of this expense should be paid out of the child's money so that the lawyers and accountants can get more and my child can get less. I also direct that each child receive full control of his or her share of my estate when they reach age 18, regardless of how sensible they may be at that time. I direct that the inheritance of each child age 18 or older be subject to attachment by any creditor, and I direct that the inheritance be freely transferable, whether in poker games or otherwise.

## Part F Miscellaneous Provisions

11. I direct that my personal representative does nothing to save me any federal estate tax, it being my desire to make the U.S. government one of the bigger heirs of my estate.
12. I have made no effort to simplify things for my personal representative, and I hereby state that the personal representative has received no help from me in determining the inventory of assets owned by me or the value of each asset.
13. I direct that my personal representative refrain from creating any trusts and taking advantage of any tax-savings, professional money management, and capital preservation benefits that a trust could provide for my heirs.
14. I direct that my personal representative refrain from utilizing any available procedures for distributing the assets of my estate by affidavit, and I insist that my estate be probated no matter how small it is and that my heirs be subjected to the resulting delay and expense.
15. If I don't tell somebody before I die whether I have any special wishes about my funeral or about donating any body organs to science, they will just have to guess about it like everything else and do what they wish.
16. If I have property located outside Wyoming, then my survivors shall have to tolerate another probate proceeding according to the terms of the will drafted for me by the state in which that property is located.

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John Doe

This mock will is provided courtesy of Tom Long, Attorney-At-Law, of Long, Reimer, Winegar, Beppler, LLP, Cheyenne, Wyoming.

This is not a real will, but it illustrates what can happen when you do not have a will and the state of Wyoming's intestate statute takes effect.